

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

**No. CV 16-00339 JAP/LAM
No. CR 09-01250 JAP**

PAUL BARELA,

Defendant/Movant.

ORDER TO CURE DEFICIENCY

THIS MATTER is before the Court on a letter from Movant Paul Barela requesting an attorney to help him file a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 on the basis of the United States Supreme Court's recent decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015). [CV Doc. 1; CR Doc. 48] The Federal Public Defender has been appointed to represent Movant, in accordance with the Administrative Order In the Matter of Representation in *Johnson v. U.S.*, 576 U.S. ___, 135 S. Ct. 2551 (2015) Cases, 16-MC-00004, Doc. 19 (D.N.M. March 25, 2016).

Defendant's letter was docketed as a Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255. [CV Doc. 1; CR Doc. 48] Pursuant to Rule 2 of the Rules Governing Section 2255 Proceedings for the United States District Courts, a § 2255 motion must "be in the form of a motion to vacate, set aside, or correct the sentence" and must:

- (1) specify all the grounds for relief available to the moving party;
- (2) state the facts supporting each ground;
- (3) state the relief requested;
- (4) be printed, typewritten, or legibly handwritten; and

(5) be signed under penalty of perjury by the movant or by a person authorized to sign it for the movant.

Rule 2(a)-(b) of the Rules Governing Section 2255 Proceedings. Furthermore, the motion must be on the proper form or substantially follow the proper form. *Id.* 2(c).

Movant's letter is not in the form of a motion to vacate, set aside, or correct sentence, does not state the facts supporting his entitlement to relief, does not state the relief requested, is not signed under penalty of perjury, and is not on the proper form nor does it substantially follow the proper form. If Movant wishes to pursue relief under 28 U.S.C. § 2255, he must cure these deficiencies and comply with the Rules Governing Section 2255 Proceedings. Failure to timely cure these deficiencies may result in dismissal of his Motion [*CV Doc. 1*; *CR Doc. 48*] without further notice.

IT IS THEREFORE ORDERED that Movant cure the deficiencies designated above **within thirty (30) days from entry of this order;**

IT IS FURTHER ORDERED that the Clerk of the Court mail to Movant, together with a copy of this order, a form 28 U.S.C. § 2255 motion with instructions.

IT IS SO ORDERED.


LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE